

**STATEMENT of JEANNE CHARN**

**Senior Lecturer on Law  
Director, Hale and Dorr Legal Services Center and  
Director, Bellow-Sacks Access to Civil Legal Services Project  
Harvard Law School**

**Before  
the**

**CONGRESSIONAL HOUSE OF REPRESENTATIVES**

**SUBCOMMITTEE  
ON  
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# **THE BELLOW-SACKS ACCESS TO CIVIL LEGAL SERVICES PROJECT**

*The Bellow-Sacks Access to Civil Legal Services Project is a joint project of  
Harvard Law School's Program on the Legal Profession, Clinical Education Program, and of the  
Hale and Dorr Legal Services Center of Harvard Law School*

Good afternoon, and thank you for the privilege of speaking to the Subcommittee on Commercial and Administrative Law. I have been asked to provide information on aspects of the client service program of the Hale and Dorr Legal Services Center of Harvard Law School, particularly information on client co-payments that we have instituted for some of the services that we provide. I begin with some background on the Hale and Dorr Legal Services Center of Harvard Law School and conclude with a brief mention of the Bellow-Sacks Access to Civil Legal Services Project, both of which provide important context for our experiment with client co-payments.

## **I. The Hale and Dorr Legal Services Center of Harvard Law School**

The Hale and Dorr Center, (the Center), was founded by my late husband Gary Bellow and me in 1979. At that time, the office was known as the Legal Services Institute. Until 1982, the program was a legal services practice center in which twenty-four third year law students spent the entire year in courses and casework preparing for careers in LSC legal services programs around the country. Eight of the twenty-four students were from Harvard Law School but up to sixteen students were from Northeastern University Law School in Boston and from other law schools in the country. The Legal Services Corporation, through a partnership between Harvard Law School and Greater Boston Legal Services, was the primary funder of the program.

Beginning in 1982, Harvard Law School became the primary sponsor and funder of the Center, though we have always retained a tie to Boston area legal services providers. The goals of the Center since 1982 have been:

- *To introduce students to law practice* - Our experience suggests that students learn best in a realistic setting. Under the supervision of experienced lawyers, students represent clients and, in companion courses, discuss and analyze the judgments, ethics, responsibilities, tasks and relationships of law practice. We have developed the concept of a “Teaching Law Office” similar to a teaching hospital in the medical profession.
- *To provide high quality service to clients* - The teaching and learning methods that best meet our students needs also produce a great deal of service to clients who cannot afford to pay for good quality legal assistance. Harvard Law School and its clinical program is very proud of the contribution we make to meeting the every day legal needs of thousands of Boston households and individuals. On an annual basis, the Center typically provides extended representation to over 700 clients and brief service and advice to as many more.
- *To be a laboratory for experimenting with approaches to delivery of high quality legal services* – The Center deliberately experiments with ways of providing excellent *and* cost-effective service to as many clients as possible. We are committed to documenting, validating and reporting on the results of these efforts. Our service experiments have included: (i) extensive use of telephone advice beginning in the mid 1980s; (ii) development of regular clinics where staff and students assist clients appearing *pro se* – we have conducted a *pro se* divorce clinic for twenty years; (iii) in the late 1980s, offering legal services to individuals and families affected by AIDS and HIV; (iv) early in the 1980s, focusing on service to victims of domestic violence in our family practice and collaborating with shelters and other social service providers as the seriousness of this problem came to be more widely recognized and understood; (v) collaboration with area medical providers to offer preventive law services and benefits check ups to low-income patients on site in clinics and hospitals; (vi) expansion of assistance to individuals and households up to four times the poverty level because these clients legal needs are similar to those of the very poor;<sup>1</sup> (vii) providing service to first time home-buyers, community not-for profits, affordable housing developers, and small businesses; (viii) development of a comprehensive quality assurance program that, among other things, tracks outcomes for all clients, sets annual performance goals for advocates and practice units, and evaluates every

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<sup>1</sup> Boston is a very high cost of living area. In 2004, the area median income for a family of four is \$82,600. Housing subsidy programs consider 80% of area median as low income and 50% of area median income as very low income.

advocate and practice unit in terms of these annual goals;<sup>2</sup> and (ix) development of a system of client co-payments for some areas of service, which I describe below.

In 1992, Hale and Dorr, LLP a major Boston law firm, donated funds to provide a permanent home for the Center. Perhaps more important than the generous gift of funds for a building, Hale and Dorr began a partnership with the Center in which firm lawyers volunteer thousands of hours to serve clients and mentor students. For the past five years, Hale and Dorr has assigned a senior partner half time, year round to supervise students and to practice with staff at the Center. The first “partner in residence” retired this spring and a second partner has now joined us. The Center and the Hale and Dorr firm recently celebrated the tenth anniversary of our collaboration and we are developing a strategic plan for joint work in the coming years.

The Center now has twenty or more lawyers, fellows and paralegals and as many as seventy students practicing and learning together each semester. During the summer we accept volunteer students. For the summer 2004, we received over a hundred applications from students in many law schools, volunteering for fewer than fifty internships. The demand for our summer program has grown as past summer interns have spread the word about the quality of service and learning at the Center.

## II. Co-payments for Client Service

As the brief description of the Center’s history and program indicates, while we share with LSC and its grantees a commitment to providing high quality service to households and

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<sup>2</sup> The quality assurance program is described in more detail in Jeanne Charn, *Quality Assurance at the Provider Level: Integrating Law Office Approaches with Funder Needs*, available at [www.lsc.gov](http://www.lsc.gov); and Jeanne Charn and Randi Youells, *A Question of Quality*, LSC EQUAL JUSTICE MAGAZINE, Winter 2004

individuals in their every day legal problems, we serve a broader clientele and we offer service in areas that are not typical of LSC grantees.

Law school support for the Center's annual operating program in fiscal 2004-2005 (Harvard's fiscal year runs from July 1 through June 30) is projected to be approximately \$1,995,000. For the same period, the Center projects earnings from statutory attorney's fees, client reimbursement of costs of service (e.g. filing fees, depositions, experts) and income from client co-payments to be between \$135,000- \$140,000. We project to spend between \$45,000 and \$50,000 in out of pocket case related expenses. These figures are consistent with year-end projections for 2003-2004.

We have always sought attorney fees where authorized by statute and, in the past, this was our main source of service generated income. We began a co-payment system in the mid-1990s, when we began to offer service to entities (not for profits and small businesses) and first time home buyers. As we found clients accepting of the co-payment concept in these areas of practice, we expanded to other areas. We do not charge co-payments to clients whose only income is need based benefits or to clients below the poverty line unless our representation produces funds from which the co-payment could be made, for example, settlement of a claim or receipt of back benefits due to an approved application. We do seek reimbursement of out of pocket costs of representation from clients of all income levels, with provision for waiver in cases of hardship. In many instances, for very low-income clients, costs of representation may be waived by courts or paid for under statutes, so the Center does not incur out of pocket costs.

We do not charge co-payments in emergency matters, such as clients who need immediate assistance in obtaining domestic violence restraining orders, because we do not want to impose even the smallest impediment to access for clients in crisis. Also, there are no co-payments for any client for preliminary consultations related to whether or not we will be able to provide advice or assistance beyond any limited advice that may be offered in a first meeting.

As we have institutionalized the co-payment system, we are finding that while attorneys fees claimed under statutes has in the past accounted for most of the service generated income to the Center, we are now approaching about a third of ordinary service generated income from client co-payments mostly in the range of \$100 to \$300. We occasionally are awarded and paid a single large fee, which would skew ratios significantly towards statutory fees, but excluding the occasional larger fee, we are beginning to see a regular flow from co-payments for the services that we routinely provide.

We decided to experiment with a system of client co-payments for a number of reasons. First, we hoped to increase resources to serve more clients. Second we hoped that clients who made even a small payment for service would have a greater sense of entitlement to diligent, responsive service. Third, we thought that it was possible that a small co-payment would play some role in helping clients decide if they really wanted to pursue legal action. Fourth, we wanted our students to have a realistic experience of dealing with the business aspects of law practice.

The increase in resources is measurable, and we see our students learning how to discuss fees and costs with clients. We have found most clients accepting of a modest co-

payment system, but we have not systematically surveyed or tested our goals in terms of client perception and attitudes. We hope to do this within the next two years, and will have better information at that time. We plan to continue the system we have in place, modifying it based on experience, and to conduct a careful and full review by the end of academic 2005-2006.

Any system of co-payments requires strong fiscal systems and fiscal controls, and attention to safety issues in terms of funds on hand, even for very short times, in the office. Fortunately, Harvard Law School is our fiscal agent, with well-established systems and controls, and we have not had any safety incidents.

### III. The Bellow-Sacks Access to Civil Legal Services Project

In 1999, a number of the faculty at Harvard Law School, including my late husband, met to plan a project that would look broadly at ways of greatly expanding access to civil legal assistance for low and moderate-income people. Twenty years of experience at the Hale and Dorr Center suggested approaches that might work on a larger scale. When my husband died in the spring of 2000, his classmates from the Class of 1960 along with others who admired his life-long dedication to improving access to justice, generously donated funds to support a policy research project, which I was asked to direct. The Bellow-Sacks Project is entirely supported by Harvard Law School and its alumni who share a dedication to making access to justice available to all whom the market cannot serve. The Project has no bias towards any existing or future system or stakeholder. We have invited, and been fortunate to have the participation of leadership from the Legal Services Corporation at a number of Bellow-Sacks sponsored events in the past three years.

We expect to have a preliminary report and findings by next fall. One important area of study has been the much larger government supported and led legal services programs in other countries. These programs serve moderate as well as very low-income clients through private bar involvement as well as staffed offices. Most involve client contributions to the cost of service at higher levels of income eligibility. In this sense, our client co-payment experiment should be understood not only as part of the program at the Hale and Dorr Center, but also as informing the possible contours of a larger and more comprehensive U. S. legal aid program that, drawing on present LSC efforts, will be well managed, cost-effective, and highly valued by the much larger number of clients it serves.